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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,959	07/30/2003	Lawrence Bergman	YOR920030056US1(8728-607)	1793

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EXAMINER
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DAO, THUY CHAN

ART UNIT	PAPER NUMBER
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2192

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 10/630,959	<b>Applicant(s)</b> BERGMAN ET AL.	
	<b>Examiner</b> Thuy Dao	<b>Art Unit</b> 2192	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 22 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 20-29.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/Tuan Q. Dam/  
 Supervisory Patent Examiner, Art Unit 2192

Continuation of 11. does NOT place the application in condition for allowance because:

1) Messinger US Patent No. 7,000,187 (Remarks, pp. 5-7)

a) Referring to Claim 20 (pp. 5-6):

"a server for processing said execution trace and said stored execution traces to generate said reusable executable procedure, wherein said procedure can be automatically performed on the client by invoking the reusable executable procedure" (claim 20, lines 8-10).

The examiner respectfully disagrees with Applicants' assertions.

Messinger explicitly teaches:

"a server" (e.g., FIG. 13C, an "on-line coach" as a server application, which provides and/or serves technical support to and train a user in performing software tasks/procedures; logging in/out said "on-line coach" (server application) by using password 446-448, FIG. 13C, col.12: 28-52; a network administrator controls/administrates said "on-line coach", i.e., server application); "executable procedure" (e.g., FIG. 8, block 370-375 existing tasks, block 380 "New Task? YES", i.e., existing and new tasks as executable procedures);

"execution trace" (e.g., FIG. 8, block 385 "Record New Task Sequence", i.e., recording a plurality of execution traces in a new task; FIG. 9, "Smurf Detection" as an "executable procedure" and steps 1-n as a plurality of "execution traces"); "stored execution traces" (e.g., FIG. 8, "Record New Task Sequence", recording/storing sequence of task (a plurality of execution traces) in memory; and

"a server for processing said execution trace and said stored execution traces to generate said reusable executable procedure" (e.g., FIG. 8, block 390, "Add New Task to Task List", the "on-line coach" (server application) processes the recorded/stored task sequence (said execution trace and said stored execution traces), generates a new task (an executable procedure), and add it to task list for reuse).

Accordingly, Applicants' assertions are not persuasive.

Furthermore, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "...for example, the new task of Messinger is response to users actions and cannot advance until a user action is completed", Remarks, page 6, lines 7-8) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Per the plain language of claim 20, Messinger explicitly teaches "...wherein said procedure can be automatically performed on the client by invoking the reusable executable procedure" (e.g., FIG. 2, within the GUI window 40a, Task List 43 includes a Smurf Detection Task button 42b to invoke the automatically performed Smurf Detection Task, col.5: 52 - col.6: 12; FIG. 13, col.11: 57-67, Smurf Detection Task automatically performs).

b) Referring to Claim 26 (Remarks, pp. 6-7):

The limitations "obtaining a plurality of execution traces, wherein each execution trace represents an execution instance of a procedure; and processing said execution traces to create a reusable executable procedure associated with said procedure, wherein said procedure can be automatically performed by invoking the reusable executable procedure" (claim 26, lines 4-7).

The examiner respectfully disagrees. Messing explicitly teaches:

obtaining a plurality of execution traces (e.g., FIG. 8, blocks 380, 385 New Task? YES (obtaining a new reusable executable procedure), block 385 Record New Task Sequence (record new execution traces of the new reusable executed procedure), col.9: 37-65), wherein each execution trace represents an execution instance of a procedure (e.g., FIG. 3A, Receive Selected Task? YES 64, Sequence Through Steps 66, steps as execution traces representing execution instances of said selected task; FIGs. 9-12, col.9: 66 - col.11: 56, where an automated reusable executable procedure (Smurf Detection task 42b) can be performed and/or used through Steps 1-n by a user in a training session);

processing said execution traces to create a reusable executable procedure associated with said procedure (e.g., FIG. 8, block 385 Record New Task Sequence (record new execution traces to create a new reusable executed procedure); FIGs. 9-12, Smurf Detection task 42b comprises Steps 1-n, col.10: 44 - col.11: 56);

wherein said procedure can be automatically performed by invoking the reusable executable procedure (e.g., FIG. 2, within the GUI window 40a, Task List 43 includes a Smurf Detection Task button 42b to invoke the Smurf Detection Task, col.5: 52 - col.6: 12; and FIGs. 9-12, col.9: 66 - col.11: 56, where an automated reusable executable procedure (Smurf Detection task 42b) can be performed and/or used through Steps 1-n by a user in a training session).

2) Bala US Patent Publication No. 2004/0130572 (Remarks, pp. 7-9)

a) Referring to Claim 20 (pp. 7-8):

The limitations "a server processing a plurality of execution traces associated with instances of an executed procedure to generate a reusable executable procedure, wherein said procedure can be automatically performed on the client by invoking the reusable executable procedure" (lines 8-10).

The examiner respectfully disagrees. Bala explicitly teaches:

a server processing a plurality of execution traces associated with instances of an executed procedure to generate a reusable executable procedure (e.g.,

FIG. 1, [0048-0049], a server connected to LAN 171 and/or WAN 173;

FIG. 6, [0074-0079], Use (Active Content Wizard) ACW Authoring Tool to Create ACW Script 650 (a server for processing/creating a reusable executable procedure), Store the Steps Contained in a Format Readable by the ACW Interpreter 680 (a server for storing the execution traces associated with said procedure);

FIG. 4, [0056-0060], User Selects Task 410 (select a reusable executable procedure), Is the System in Step by Step Mode? YES 464 (is the system in trace by trace mode), Execute Step Using ACW Interpreter Module 452 (execute said plurality of execution traces)

wherein said procedure can be automatically performed on the client by invoking the reusable executable procedure (e.g., FIG. 4, blocks 410 and 422, [0056-0057]; FIG. 5A-J, task "Edit the path variable" is executed by system 200, [0059]).

b) Referring to Claim 26 (pp. 8-9):

The limitations "obtaining a plurality of execution traces, wherein each execution trace represents an execution instance of a procedure; and processing said execution traces to create a reusable executable procedure associated with said procedure, wherein said procedure can be automatically performed by invoking the reusable executable procedure." (lines 4-8).

The examiner respectfully disagrees. Bala explicitly teaches:

obtaining a plurality of execution traces, wherein each execution trace represents an execution instance of a procedure (e.g., FIG. 6, Use (Active Content Wizard) ACW Authoring Tool to Create ACW Script 650 (create a reusable executable procedure), Store the Steps Contained in a Format Readable by the ACW Interpreter 680 (store the execution traces associated with said reusable executable procedure);

FIG. 4, Execute Step Using ACW Interpreter Module 452, Are There Additional Steps to Execute? 458, steps to execute as a plurality of execution traces, [0058]);

processing said execution traces to create a reusable executable procedure associated with said procedure (e.g., FIG. 6 as above, Use (Active Content Wizard) ACW Authoring Tool to Create ACW Script 650 (create a reusable executable procedure), Store the Steps Contained in a Format Readable by the ACW Interpreter 680 (store the execution traces associated with said reusable executable procedure);

FIG. 4, User Selects Task 410 (select a reusable executable procedure), Is the System in Step by Step Mode? YES 464 (is the system in trace by trace mode), Execute Step Using ACW Interpreter Module 452),

wherein said procedure can be automatically performed by invoking the reusable executable procedure (e.g., FIG. 4, blocks 410, 422, 464, [0056-0057]; FIG. 5A-J, task "Edit the path variable" is executed by system 200, [0059]).

In conclusion, the examiner respectfully maintains ground of 35 UCS 102 rejections over claims 20-29.